

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**RICHIE F. LEVINE**  
548 US HIGHWAY 15  
SOUTH WILLIAMSPORT  
PENNSYLVANIA, 17702-7024

(PLAINTIFF)

v.

**KELLY SERVICES, INC.**  
460 MARKET STREET  
SUITE 116  
WILKES BARRE, PA 17701-6321

(DEFENDANT)

**VERIFICATIONS, INC.**  
1425 MICKELSON DRIVE  
WATERTOWN, SD 57201-5305

(DEFENDANT)

: CIVIL CASE NO: 4:07-CV-1966

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FILED  
MIDDLE DISTRICT OF PENNSYLVANIA

OCT 26 2007

CLERK OF DISTRICT COURT  
WILKES BARRE, PA

COMPLAINT

1. The plaintiff Richie F. Levine, a citizen of the County of Lycoming, State of Pennsylvania, residing at 548 US Highway 15, South Williamsport, PA 17702-7024 wishes to file a complaint under **15 U.S.C. § 1681**.

2. The defendants are: Kelly Services, Inc., located at 460 Market Street Suite 116, South Williamsport, PA 17701-6321 and Verifications, Inc. located at 1425 Mickelson Drive, Watertown, SD 57201-8003.

3. **STATEMENT OF CLAIM:** I hereby assert violations against Kelly Services Inc. and Verifications, Inc. as conspirators on the basis of my rights under the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq). The following are the facts as known by me at the time of submission of this complaint.

**CIRCUMSTANCES:**

1. On or about August 19, 2004 Plaintiff pled guilty in New York State to one count of Attempted Dissemination of Indecent Material To A Minor In The 1<sup>st</sup> Degree.
2. On or about June 26, 2007 I was interviewed by Defendant's Williamsport, Pennsylvania location in connection to my application for employment. I was told that day that due to my felony conviction an adverse action letter was generated and that I was ineligible to proceed further.
3. On or about September 17, 2007 a background check was run at my insistence by Defendant and I was found to be not eligible for hire.
4. On or about September 24, 2007 a letter was sent by Plaintiff asking for specific information about Kelly Services Behavior Matrix, Criminal Policy During the Hiring Process Task Instructions and Background Screening for Applicants and Temporary Employees, all of which were used on the background check but never provided.

**FEDERAL VIOLATIONS:**

A) I assert that Defendants refused to disclose on request the nature and scope of their investigation. According to **15 U.S.C. § 1681 (d)(b)** *a person or company who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a) (1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.* Since Kelly Services Behavior Matrix, Criminal Policy During the Hiring Process Task Instructions and Background Screening for Applicants and Temporary Employees were all used as a basis for this investigative consumer report and not supplied upon request, this is a violation of Plaintiff rights.

B) I assert that Defendants failed to provide the entire nature and substance of all information in its files on the consumer at Plaintiff's request in accordance with **15 U.S.C. § 1681 (g)(1)** and failed to include their sources for information, which are the Kelly Services Behavior Matrix, Criminal Policy During the Hiring Process Task Instructions and Background Screening for Applicants and Temporary Employees since they were all used as a basis for this investigative consumer report and not supplied upon request. This is a violation of Plaintiff rights under **15 U.S.C. § 1681 (g)(2)** which states that, *"the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need to be disclosed and such sources may be made available to Plaintiff upon appropriate discovery procedures."* Defendants claim this to be proprietary disclosure information and refuse to adhere to the request.

C) The evidence that exists provided in this complaint suggests conspiracy between Kelly Services, Inc. and Verifications, Inc. to violate any of the duties imposed under the Fair Credit Reporting Act. Therefore, either party can be held vicariously liable under conspiracy theory of liability. (**Consumer Credit Protection Act, §§ 602-622, as amended, 15 U.S.C.A. §§ 1681-1681t.**) I contend that both defendants are liable and have conspired together to prevent Plaintiff from obtaining the complete nature and scope of their investigation by a failure to disclose the parts of Plaintiff's background report as is his right under the FCRA.

D) I assert that Kelly Services, Inc. and Verifications, Inc. deliberately and willfully conspired in failing to properly disclose information it stated on the consumer report as required by **15 U.S.C. § 1681i**. These acts permanently damaged my employment record and impaired my future employment opportunities with Kelly Services, Inc. I claim that both defendants' acts *"caused me permanent and irreparable harm and damage, including without limitation the loss of future wages."* A credit reporting agency and a user of consumer report information should not be allowed to actively engage in a conspiracy to violate the FCRA and shield them from liability simply because of a classification with regard to using a "proprietary disclosure defense" of the consumer information used in the decision to prevent the release. If this was so, an employer can then refuse to hire an employee on the basis of information in this consumer report that is not available to be reviewed or contested. Thus, the employer and agency have successfully agreed and conspired to violate one of the agencies' affirmative duties under the Act and violate it.

E) Under law I do not have to prove that malice nor evil motive were necessary to establish finding of willfulness of violation of the Fair Credit Reporting Act; willfulness can be demonstrated by the showing of knowing and intentional commission of an act or acts (failure to provide appropriate disclosure of Kelly Services Behavior Matrix, Criminal Policy During the Hiring Process Task Instructions and Background Screening for Applicants and Temporary Employees since they were a part of the consumer report) and in conscious disregard for my rights. I also exert economic loss due to depression and can document this. (Jorgensen v. TRW, Inc., U.S. Dist. Ct., D. Or., No. CV96286-JE, July 22, 1998: *Defendant failed to follow reasonable procedures to assure the maximum possible accuracy in its credit reports.*)

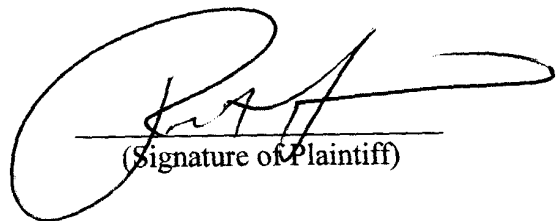
F) The FCRA was enacted *"to promote efficiency in the Nation's banking system and to protect consumer privacy."* TRW Inc. v. Andrews, 534 U.S. 19, 23, 122 S.Ct. 441, 151 L.Ed.2d 339 (2001). I have a cause of action under FCRA for damages sustained due to "negligent [or willful] failure of a reporting agency to comply with any requirement imposed by the Act." Id. at §§ 1681o, 1681n; Hyde v. Hibernia Nat'l Bank, 861 F.2d 446, 448 (5th Cir.1988); see also Vonderheide v. IRS, No. C-1-96-161, 1996 U.S. Dist. LEXIS 10463 (S.D.Ohio July 2, 1996). The FCRA provides consumers with a cause of action for negligent noncompliance with §§ **1681e and 1681s-2(b)**, and permits the recovery of actual damages, costs, and attorney fees. **15 U.S.C. § 1681o**; see also Bruce, 103 F.Supp.2d at 1143 (*holding consumers have private causes of action against*

*furnishers of credit information who violate § 1681s-2(b)); Campbell v. Baldwin, 90 F.Supp.2d 754, 756 (E.D.Tex.2000) (same).* In this case I assert that Defendants are negligent because I clearly informed them on two occasions of the need to disclose information used on my consumer background report and both refused to do so.

**CONCLUSION:**

I hereby assert that Kelly Services, Inc. and Verifications, Inc. should both be held liable for numerous violations of 15 U.S.C. § 1681 that have been demonstrated here. The exhibits provided demonstrate a need for the court to exercise its judgment and determine that the act has been violated.

4. WHEREFORE, plaintiff prays for a monetary judgment from each defendant in the amounts of \$1,000 in statutory damages, \$5,000 for obtaining information under false pretenses, \$25,000 in actual damages, \$75,000 in punitive damages and any and all reasonable attorney's fees and costs for willful and negligent noncompliance with the Act.



(Signature of Plaintiff)



17-Sep-2007

Richie Levine  
548 Montgomery Pike  
Rd  
S. Williamsport, PA 17702

**Re: Notice of Adverse Action**

Dear Richie Levine

This letter is to notify you that an offer of employment will not be made to you at this time. This decision was based, either in whole or in part, on information provided by Kelly Services, Inc. in a pre-employment background screen report. The pre-employment background screen was conducted by Verifications, Inc.

Verifications, Inc. was not involved in this decision and is unable to provide you with specific reasons why the adverse action is being taken. Such inquiries should be directed to the following:

Attn: Human Resource Representative  
Kelly Services, Inc.  
999 W. Big Beaver Road  
Troy, MI 48064

You were provided with a Notice of Pending Adverse Action on 06/26/2007, which included a copy of your pre-employment background screen results. If you need an additional copy, you may obtain one free of charge by contacting Verifications, Inc., within 60 days.

You may dispute the accuracy or completeness of any background screen information by contacting the background screening agency at the address and phone number shown below:

Verifications, Inc.  
1425 Mickelson Drive  
Watertown, SD 57201  
(877) 414-7060

Sincerely,  
Jennifer Bargovic  
Senior Staffing Supervisor

SafeScreen - Background Report

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Report in progress

**Order No:** 3046334  
**TO:** JENNIFER BARGOVIC  
 KELLY SERVICES INC.  
 460 MARKET STREET  
 SUITE 116  
 SOUTH WILLIAMSPORT, PA  
 17701

**CC:**

**Phone:** (000) 000-0000  
**FAX:** ( ) -  
**E-mail:** bargojl@kellyservices.com

07-8-111540

**BACKGROUND INVESTIGATION REPORT**

PR-9/17/07

**Applicant:** LEVINE, RICHIE  
 548 MONTGOMERY PIKE  
 RD  
 SOUTH WILLIAMSPORT, PA 17702  
**Aka:** RICHIE FOSTER LEVINE  
**SS No:** XXX-XX-1566

**Entered:** 08/31/07  
**Completed:**

**Investigation Summary**

Verification Type Information Source	Verification Status					Result
	Complete	Closed	Not Accessible	In Progress	Outstanding Performance	
<b>County-Upper &amp; Lower</b>						
NEVADA/CLARK/HENDERSON	[X]	[ ]	[ ]	[ ]	[ ]	Complete
NEW YORK/DUTCHESS/POUGHKEEPSIE	[X]	[ ]	[ ]	[ ]	[ ]	Complete
NEW YORK/ORANGE/NEW WINDSOR	[X]	[ ]	[ ]	[ ]	[ ]	Complete
NEW YORK/ORANGE/NEWBURGH	[X]	[ ]	[ ]	[ ]	[ ]	Complete
PENNSYLVANIA/LYCOMING/SOUTH WILLIAMSPORT	[X]	[ ]	[ ]	[ ]	[ ]	Complete
<b>County10 Upper-Lower</b>						
NEW YORK/WESTCHESTER/WHITE PLAINS	[X]	[ ]	[ ]	[ ]	[ ]	Complete
<b>Statewide Criminal</b>						
NEVADA/ (Unavailable)	[ ]	[ ]	[X]	[ ]	[ ]	Complete
NEW YORK	[X]	[ ]	[ ]	[ ]	[ ]	Complete
PENNSYLVANIA	[ ]	[ ]	[ ]	[X]	[ ]	Pending
<b>SSN Trace</b>						
CSC/EQUIFAX	[X]	[ ]	[ ]	[ ]	[ ]	Complete

Under the Kelly Services Behavior Matrix, (X) indicates for employment, please refer to the customer's job description and the minimum job requirements of assignment required.

Pending

Review Required: per Kelly Services Behavior Matrix, (X) does not imply automatic bar to employment, please refer to Kelly's Applying the Criminal Behavior Policy During the Hiring Process Task Instructions and the procedures outlined in the Background Screening for Applicants and Temporary Employees.

Under the Kelly Services Behavior Matrix, (X) does not imply an automatic bar to employment, please refer to Kelly's Applying the Criminal Behavior Policy During the Hiring Process Task Instructions and the procedures outlined in the Background Screening for Applicants and Temporary Employees.

[https://www.verificationsinc.com/verif/report\\_view.cfm?type=r](https://www.verificationsinc.com/verif/report_view.cfm?type=r)

9/17/2007

The information in this report may have been obtained from third-party sources who maintain this information. If this report includes criminal record searches, please note that some minor charges may have been processed in a lower court which has no central reporting location. These types of charges, therefore, may not be included herein. Though Verifications, Inc. (VI) has made every effort to provide accurate information, the accuracy and/or completeness of the information provided cannot be guaranteed. By engaging VI, you release VI and all of its officers, agents and employees from all liability for any negligence associated with providing the enclosed information.

### Upper and Lower Court County Criminal

Source: **NEVADA/CLARK/HENDERSON** Complete

Review Dates Starting: 2000

Ending: 2007

Criminal Search Results: A criminal record search must be conducted at the District court in this location. The information was requested on 08/31/07 and will be forwarded upon receipt. Please note, searches at the Justice court must be turned in to the clerk to be processed. Results from the Justice Court are averaging 1-2 weeks.

----- 09/06/07 Checked Status -----

----- 09/07/07 Checked Status -----

----- 09/10/07 Checked Status -----

----- 09/11/07 Checked Status -----

----- 09/11/07 Verification Completed -----

No felony or misdemeanor convictions or outstanding warrants were found in the above county from 2000 to 09/11/07, using all names provided and developed.

The starting and ending dates shown above refer to the minimum number of years searched. Actual years searched may be greater and is dependent upon record availability in this repository using standard search methods. Information reported includes available records for the maximum period allowed under applicable law.

### Upper and Lower Court County Criminal

Source: **NEW YORK/DUTCHESS/POUGHKEEPSIE** Complete

Review Dates Starting: 2000

Ending: 2007

Criminal Search Results: A criminal record search must be conducted by a researcher or court clerk at this location. The information was requested on 08/31/07 and will be forwarded upon receipt.

----- 09/06/07 Verification Completed -----

No felony or misdemeanor convictions or outstanding warrants were found in the above county from 2000 to 09/06/07, using all names provided and developed.

The starting and ending dates shown above refer to the minimum number of years searched. Actual years searched may be greater and is dependent upon record availability in this repository using standard search methods. Information reported includes available records for the maximum period allowed under applicable law.

### Upper and Lower Court County Criminal

Source: **NEW YORK/ORANGE/NEW WINDSOR** Complete

Review Dates Starting: 2000

Ending: 2007

Criminal Search Results: A criminal record search must be conducted by a researcher or court clerk at this location. The information was requested on 08/31/07 and will be forwarded upon receipt.

----- 09/04/07 Verification Completed -----

No felony or misdemeanor convictions or outstanding warrants were found in the above county from 2000 to 09/04/07, using all names provided and developed.

The starting and ending dates shown above refer to the minimum number of years searched. Actual years searched may be greater and is dependent upon record availability in this repository using standard search methods. Information reported includes available records for the maximum period allowed under applicable law.

### Upper and Lower Court County Criminal

Source: **NEW YORK/ORANGE/NEWBURGH** Complete

Review Dates Starting: 2000

Ending: 2007

## SafeScreen - Background Report

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*Criminal Search Results:*

A criminal record search must be conducted by a researcher or court clerk at this location. The information was requested on 08/31/07 and will be forwarded upon receipt.

----- 09/04/07 Verification Completed -----

No felony or misdemeanor convictions or outstanding warrants were found in the above county from 2000 to 09/04/07, using all names provided and developed.

The starting and ending dates shown above refer to the minimum number of years searched. Actual years searched may be greater and is dependent upon record availability in this repository using standard search methods. Information reported includes available records for the maximum period allowed under applicable law.

**Upper and Lower Court County Criminal**

Source: **PENNSYLVANIA/LYCOMING/SOUTH WILLIAMSPORT** Complete

Review Dates Starting: 2000

Ending: 2007

*Criminal Search Results:*

A criminal record search must be conducted by a researcher or court clerk at this location. The information was requested on 08/31/07 and will be forwarded upon receipt.

----- 09/06/07 Verification Completed -----

No felony or misdemeanor convictions or outstanding warrants were found in the above county from 2000 to 09/06/07, using all names provided and developed.

The starting and ending dates shown above refer to the minimum number of years searched. Actual years searched may be greater and is dependent upon record availability in this repository using standard search methods. Information reported includes available records for the maximum period allowed under applicable law.

**10 Year Upper-Lower County Criminal**

Source: **NEW YORK/WESTCHESTER/WHITE PLAINS** Complete

Review Dates Starting: 2000

Ending: 2007

*Criminal Search Results:*

A criminal record search must be conducted by a researcher or court clerk at this location. The information was requested on 09/12/07 and will be forwarded upon receipt.

----- 09/14/07 Verification Completed -----

\*\*\*NOTE: The following case is located under: Richie Levine with matching date of birth.

Case number: da482-04

03/15/04 Attempted disseminating of pornographic material to a minor (Felony)

11/04/04 Guilty

Sentence: 5 Years probation and \$270.00 fees.

**Statewide Criminal**

Source: **NEVADA/ (Unavailable)** Non-Accessible

Review Dates Starting: 2000

Ending: 2007

*Criminal Search Results:*

----- 08/31/07 Verification Updated -----

New or additional information has been added to the original application requiring this verification to be reprocessed.

----- 09/04/07 Verification Completed -----

Nevada statewide criminal records are not accessible without a signed fingerprint card and a special release. Please contact your client representative to request a finger print card form and a copy of the release.

**Statewide Criminal**

Source: **NEW YORK** Complete

Review Dates Starting: 2000

Ending: 2007

*Criminal Search Results:*

A statewide record search must be conducted by the New York Office of Court Administration. The information was requested on 09/12/07 and will be forwarded upon receipt.

----- 09/12/07 Verification Completed -----



## SafeScreen - Background Report

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\*\*\*NOTE: The following cases are located under: Richie Levine with an AKA of Richie F. Levine and a matching date of birth.

Case number: 00025V-2005  
 ??/??/?? Violation of probation (Felony)  
 02/02/06 Guilty

Sentence: 1 Year jail.

\*\*Please note: This record was located in Dutchess County.

-----END-----  
 Case number: 00482S-2004  
 03/15/04 1st Degree attempted presumption-indecet material to minor (Felony)  
 08/19/04 Guilty

Sentence: Jail (length not provided) and 5 years probation.

\*\*Please note: This record was located in Westchester County.

Statewide Criminal	
Source:	PENNSYLVANIA
Review Dates Starting:	2000
Ending:	2007
Criminal Search Results:	<p>A statewide record search must be conducted by the Pennsylvania Director of Records and Identification. Turnaround time has been averaging 2 business days. Please note, if a possible record is located, this verification will be delayed by an additional 2-4 weeks. The information was requested on 08/31/07 and will be forwarded upon receipt.</p> <p>----- 09/06/07 Checked Status -----            ----- 09/07/07 Checked Status -----            ----- 09/10/07 Checked Status -----            ----- 09/11/07 Checked Status -----            ----- 09/12/07 Checked Status -----            ----- 09/13/07 Checked Status -----            ----- 09/14/07 Checked Status -----</p>

SSN Trace	
Source:	CSC/EQUIFAX
SSN Trace Results:	EQUIFAX DTEC TRACE REPORT
<p>NAME            ADDRESS/ADDRESS REPORTED DATE</p> <p>LEVINE, RICHIE FOSTER            CA-548 MONTGOMERY PIKE,SOUTH WILLIAMSPORT,PA 17702 7/2007            FA-701 ASPEN PEAK LOOP APT 1712,HENDERSON,NV 89011 3/2007</p> <p>FN-RICHIE, F LEVINE</p> <p>SSN ISSUED 1982:NY            SAFESCANNED: Your inquiry has gone through our SAFESCAN data base.            Subject's SSN verified.</p> <p>Please note that "SSN verified" means 2 or more Equifax customers have reported data to Equifax with this SSN. "SSN not verified" simply means that 0-1 Equifax customers have reported data to Equifax with this SSN. Please see the SAFESCAN warning for the status of the SSN. If it reads only "Your inquiry has gone through our SAFESCAN data base.", the credit bureau is satisfied with the validity of the SSN.</p> <p>If criminal checks have been requested, the applicable addresses and other names, as well as those on the application, have been used to determine jurisdictions unless otherwise requested by the client.</p> <p>Please note name found on trace is transposed with a matching social security number.</p>	

[https://www.verificationsinc.com/verif/report\\_view.cfm?type=r](https://www.verificationsinc.com/verif/report_view.cfm?type=r)

9/17/2007